

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

\_\_\_\_\_  
IN RE TRICOR DIRECT PURCHASER  
ANTITRUST LITIGATION

)  
)  
) C.A. No. 05-340 (SLR)  
) (Consolidated)  
)

\_\_\_\_\_  
THIS DOCUMENT RELATES TO:

ALL ACTIONS

\_\_\_\_\_  
IN RE TRICOR INDIRECT PURCHASER  
ANTITRUST LITIGATION

)  
)  
) C.A. No. 05-360 (SLR)  
) (Consolidated)  
)

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THIS DOCUMENT RELATES TO:

ALL ACTIONS

**REDACTED / PUBLIC VERSION**

**DECLARATION OF JACK C. GOLDSTEIN**

**Chimicles & Tikellis, LLP**  
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ADDITIONAL COUNSEL ON SIGNATURE PAGE

Date: June 9, 2008

CONTAINS HIGHLY CONFIDENTIAL INFORMATION: SUBJECT TO PROTECTIVE ORDER

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IN RE TRICOR DIRECT PURCHASER  
ANTITRUST LITIGATION

CASE NO. 05-340 (SLR)  
(consolidated)

THIS DOCUMENT RELATES TO:  
  
DIRECT PURCHASERS

DECLARATION OF JACK C. GOLDSTEIN

I, Jack C. Goldstein, submit this Declaration pursuant to 28 U.S.C. § 1746 and declare as follows:

1. I have personal knowledge of facts stated in this Declaration, and if called upon as a witness, could and would testify competently thereto.

2. I have been retained as an expert in the above-captioned action on behalf of plaintiffs Louisiana Wholesale Drug Co., Inc., Rochester Drug Co-Operative, Co., Meijer Inc., and Meijer Distribution, Inc. (collectively, the "Direct Purchaser Class Plaintiffs"), plaintiffs CVS pharmacy, Inc., Rite Aid Corporation, and Rite Aid Hdqtrs. Corp. (collectively, the "CVS and Rite Aid Plaintiffs"), and plaintiffs Walgreen Co., Eckerd Corporation, The Kroger Co., Maxi Drug, Inc. d/b/a/ Brooks Pharmacy, Albertson's, Inc., Safeway, Inc., American Sales Co., Inc., and Hy-Vee, Inc. (collectively, the "Walgreen Plaintiffs") in this antitrust action brought against defendants Abbott Laboratories ("Abbott") and Fournier Industrie et Santé and Laboratories Fournier S.A. (collectively, "Fournier").

DECLARATION OF JACK C. GOLDSTEIN  
7284-v1/1003.0050

CASE NO. 05-340 (SLR)  
(consolidated)

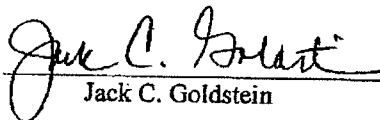
1           3.     I received a B.S. in Mechanical Engineering from Purdue University in  
2     1964 and a J.D. in from The George Washington University Law School in 1968. I am a  
3     member of the Illinois, Texas, and District of Columbia bars, and I am a registered patent  
4     attorney admitted to practice before the Patent Office. My curriculum vitae is attached as  
5     Exhibit A to this Declaration.

6           4.     On December 15, 2006, I submitted an expert report in this case entitled  
7     "Expert Report of Jack C. Goldstein." The Expert Report of Jack C. Goldstein is attached  
8     as Exhibit B to this Declaration and is hereby incorporated by reference into this  
9     Declaration.  
10

11          5.     On August 8, 2007, I submitted another expert report in this case entitled  
12     "Rebuttal Expert Report of Jack C. Goldstein." The Rebuttal Expert Report of Jack C.  
13     Goldstein is attached as Exhibit C to this Declaration and is hereby incorporated by  
14     reference into this Declaration.

15     I declare under penalty of perjury that the foregoing is true and correct.  
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17  
18     Executed May 29, 2008

19                       
20                     Jack C. Goldstein  
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DECLARATION OF JACK C. GOLDSTEIN  
7284-v1/1003.0050

CASE NO. 05-340 (SLR)  
(consolidated)

# **EXHIBIT A**

**JACK C. GOLDSTEIN**  
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Houston, Texas 77024-7251  
Telephone: (713) 782-7823  
Facsimile: (713) 782-9942  
E-mail: jcgoldst@aol.com

### **PROFESSIONAL EXPERIENCE**

- Law Office of Jack C. Goldstein – Houston, Texas** 1999—  
Sole practitioner serving as a mediator, arbitrator, special master, or consulting or testifying expert in intellectual property law matters.
- The Whitaker Corporation – Wilmington, Delaware** 1998-99  
Vice President, Acting President, and President of this \$370 million intellectual property holding company and its two wholly owned subsidiaries. An accompanying sheet describes Whitaker, its \$5.5 billion parent corporation (i.e., AMP Incorporated, which became a wholly owned subsidiary of Tyco International Ltd. on April 2, 1999), and Whitaker's two subsidiaries.
- Arnold, White & Durkee – Houston, Texas** 1969-97  
Associate and shareholder of this law firm during its growth from 12 attorneys in one office to the nation's second largest intellectual property law boutique with more than 150 attorneys in six offices nationwide. (In February 2000, this firm merged into the law firm now known as Howrey LLP.)
- South Texas College of Law – Houston, Texas** 1974-84  
Adjunct Professor of Law, teaching courses in patent law and copyright law.
- U.S. Court of Customs and Patent Appeals – Washington, D.C.** 1968-69  
Law Clerk and Technical Advisor to Judge Phillip B. Baldwin. (In October 1982, this court and the appellate division of the U.S. Court of Claims merged into the U.S. Court of Appeals for the Federal Circuit with, *inter alia*, exclusive appellate jurisdiction over federal patent cases nationwide.)
- U.S. Office of Naval Research Patent Branch – Washington, D.C.** 1967-68  
Patent Advisor (civilian) at the U.S. Naval Ordnance Laboratory in White Oak, Maryland.
- U.S. Patent and Trademark Office – Washington, D.C.** 1964-67  
Patent Examiner in Group 430 and, upon reorganization of the PTO, in Art Unit 285.

### **EDUCATION**

J.D. with Honors, The George Washington University Law School, 1968  
Order of the Coif; Law Review

B.S. in Mechanical Engineering, Purdue University, 1964  
Pi Tau Sigma National Mechanical Engineering Honorary Fraternity

## BAR ADMISSIONS

States of Illinois and Texas | District of Columbia | U.S. Patent and Trademark Office

## SELECTED PROFESSIONAL AFFILIATIONS AND SERVICE

AIPPI United States (President, 2001-04; Executive Committee, 2004-)  
American Bar Association House of Delegates (Section Delegate, 1999-)  
American Bar Association Section of Intellectual Property Law (Chair, 1992-93)  
American Bar Foundation (Fellow, 2003-)  
American Intellectual Property Law Association (President, 1988-89; Fellow, 1999-)  
Association Internationale pour la Protection de la Propriété Industrielle (Treasurer General, 2000-01)  
Association of Former CAFC (formerly CCPA) Law Clerks and Technical Advisors (President, 1979-80)  
College of the State Bar of Texas (1991-)  
Copyright Society of the U.S.A. (Board of Trustees, 1979-82)  
Federal Circuit Bar Association (President, 1987-88)  
Foundation for a Creative America Board of Directors, 1989-94  
George Washington Law Alumni Association (Board of Directors, 1980-84, 1993-2004)  
The George Washington University Law School Intellectual Property Advisory Board, 2000-  
Houston Bar Foundation (Life Fellow)  
Houston Intellectual Property Law Association (President, 1979-80)  
Intellectual Property Owners Association (Board of Directors, 1998-2000)  
*The Intellectual Property Law Strategist* Board of Editors, 1994-97  
Library of Congress Copyright Advisory Committee, 1981-82  
*Patent, Trademark and Copyright Journal* Advisory Board, 1978-2003  
State Bar of Texas Intellectual Property Law Section (Chair, 1988-89)  
Texas Bar Foundation (Life Fellow)  
United States Court of Appeals for the Federal Circuit Advisory Committee, 1984-92  
University of Houston Law Center Intellectual Property Advisory Board, 1991-97

## HONORS AND AWARDS

*Texas Super Lawyers*, 2003-  
*Guide to the World's Leading Trademark Law Practitioners*, 2000  
One of The Best Lawyers in Houston, *Inside Houston*, 1998  
*Guide to the World's Leading Patent Law Experts*, 1997  
Jacob Burns Award, The George Washington University Law School, 1996  
One of the 100 Most Influential Lawyers in America, *The National Law Journal*, 1994  
Chair's Award, State Bar of Texas Intellectual Property Law Section, 1992  
*The Best Lawyers in America*, 1991-98, 2005-  
President's Award, Houston Intellectual Property Law Association, 1988  
Gerald Rose Memorial Competition Award, The John Marshall Law School, 1986  
Alumni Service Award, The George Washington University Law School, 1985  
Journal Finalist Award, Texas Bar Foundation, 1981  
Superior Performance Award, U.S. Patent and Trademark Office, 1967

**The Whitaker Corporation**  
(Circa January 1, 1998, through April 30, 1999)

Located in Wilmington, Delaware, **The Whitaker Corporation** was a wholly owned subsidiary of **AMP Incorporated**, a Pennsylvania corporation having its headquarters in Harrisburg, Pennsylvania. AMP was the world leader in electrical, electronic, fiber-optic, and wireless interconnection devices and systems – with 1998 sales of approximately \$5.5 billion. Incorporated in 1941, AMP was publicly held from 1956 until it was acquired by Tyco International Ltd. on April 2, 1999.

Whitaker was a Delaware corporation formed to hold and safeguard the intellectual property ("IP") developed by AMP or acquired from others. Whitaker owned the legal rights in all inventions, trademarks, works of authorship, and trade secrets or confidential information that AMP created or acquired from others. Through in-house and outside attorneys and agents, Whitaker filed and prosecuted applications for patents, trademark registrations, and copyright registrations. Whitaker had a wholly owned Delaware subsidiary, **AMP International Enterprises Limited** with offices in Switzerland and Japan, which assisted with respect to the patent applications filed in Europe and Asia, respectively.

Whitaker was among the 25 United States corporations that received the most United States patents in 1997 and in 1998. In 1998 Whitaker owned – on a worldwide basis – approximately 8,500 patents, 6,000 patent applications, 1,500 trademark registrations, and 400 applications for trademark registrations.

Whitaker enforced its IP rights by notifying and, if necessary, suing infringers and misappropriators of its IP. For IP law suits filed by Whitaker (with AMP as a co-plaintiff) against others or filed by others against AMP, Whitaker selected, employed, and supervised outside trial counsel. In 1998 Whitaker negotiated settlements in five IP litigations and managed 14 other IP court cases and contested patent and trademark office proceedings around the world.

Whitaker licensed its IP to AMP and handled the legal work regarding any IP licenses taken by AMP from others. Historically, AMP and Whitaker did not, as a general rule, grant patent licenses to entities that were not affiliated with AMP – unless required to do so pursuant to an industry standard. That changed; and in 1996 Whitaker formed a second wholly owned Delaware subsidiary, **AMP Technologies, Inc.**, not only to develop an active licensing program for granting licenses under selected patents to third parties but also to negotiate and prepare those licenses for execution by Whitaker. Whitaker's patent license revenues were over \$370 million in 1998, and Whitaker was structured and operated so that neither it nor AMP had any Delaware or Pennsylvania state income tax liability on the lion's share of Whitaker's substantial net income.

In essence, Whitaker not only managed its IP but also provided to AMP what were formerly its in-house IP legal services, including risk assessments (sometimes called "product clearances") and counseling. When AMP had its own in-house IP law department, AMP's Chief IP Counsel reported directly to the Chairman of AMP's board of directors. When the personnel from AMP's IP law department moved to Wilmington and became employed by Whitaker in 1992, AMP's former Chief IP Counsel became Whitaker's President and reported to the Chairman of Whitaker's board of directors (who also was the Chairman of AMP's board of directors). In August of 1998, AMP's Chief Financial Officer was elected to replace AMP's Chairman as the Chairman of Whitaker's board.

In 1998 Whitaker and its subsidiaries had 58 employees, including 26 attorneys and patent engineers; the 43 U.S. employees, including 17 attorneys, were all located in Wilmington. After Tyco acquired AMP in 1999, Whitaker and its subsidiaries were "restructured" to 17 employees, including eight attorneys and patent engineers; the ten U.S. employees, including five attorneys, remained in Wilmington.

**EXHIBITS B-C**

**REDACTED**